

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3860 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

B S SETHI

Versus

STATE OF GUJARAT

Appearance:

MR NIKHIL KARIEL for MR BP TANNA for Petitioners
MR LR PUJARI, AGP, for Resp. No.1
MR ANANT S DAVE for Respondent No.2

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 30/11/2000

ORAL JUDGEMENT

The petitioners seek a declaration that they are
entitled to promotions to the post of Ex-Cadre D.S.P. on
the basis of their continuous officiation in the cadres

of PSI/PI and that the respondents are not entitled to promote persons to the cadre of D.S.P. on the basis of the promotion to the cadre of Assistant Commander in SRP force.

2 The petitioners were recruited in 1955-56 as PSIs. They came to be promoted as Dy.S.P. in the year 1980 as stated in the petition. They claimed that they should be promoted to the Ex-Cadre post of DSP in the State and that they would be put to disadvantage if persons in SRP are allowed to jump over their claim for no fault on their part.

3 It has been pointed out in the affidavit-in-reply filed on behalf of the State that appointment on the Ex-Cadre post is governed by the Resolution dated 2.4.1985 which lays down the criteria for appointment to be proved merit and efficiency. It is stated a panel of suitable officers from amongst Dy.S.P.s is drawn in order of their seniority by the Selection Committee constituted under the said Resolution and appointment is made on the basis of the said criteria of proved merit and efficiency. It is stated that the process of selection from the State Police Service Officers of Dy.S.P. rank for ad hoc appointment on Ex-Cadre posts of SP/DSP/Commandant which are of DSP rank has been institutionalised and rationalised by the Government and the Selection Committee under the said Resolution considers the names of the Police Officers in the rank of Dy.S.P. in order of their seniority and prepares a panel applying the criteria of proved merit and efficiency. Such panel is prepared as and when necessary as per the requirements for appointment to the Ex-cadre posts. It is stated that the appointment of ex-cadre posts is purely on ad hoc basis looking to administrative exigencies of the State and when vacancies arise in the ex-cadre posts of DSP rank, officers from armed or unarmed cadre are appointed to the ex-cadre post of DSP's rank. Such ad hoc appointment is not considered as promotion because promotion from Dy.S.P. cadre to the DSP cadre is being regulated under the provisions of the IPS (Appointment by Promotion) Regulations, 1955. Those State Police Officers of rank of Dy.SP who are nominated as IPS or who are on the select list for appointment to the IPS are eligible for promotion to the post of DSP's rank. It is stated in para 12 of the affidavit-in-reply that the petitioners Shri B.S. Sethi, Shri H.H.Pathak, and Shri R.L. Visana were duly considered by the Departmental Promotion Committee in the year 1988 although their seniority list was published at a later stage and therefore no injustice has been caused to them.

It is thus clear that there is a rational procedure prescribed for making appointments to the ex-cadre posts of DSP and there is absolutely no reason to infer that the High Level Committee has acted on any extraneous ground in preparing the panel. None of the rights of the petitioners have been violated and they have no claim to the ex-cadre post of DSP as a matter of any entitlement under the Rules. As is made out in the affidavit-in-reply, these posts are to be filled in only on ad hoc basis as per the procedure evolved under the Resolution dated 2.4.1986. There is, therefore, absolutely no ground made out for issuing any direction to the respondents for appointing the petitioners to the ex cadre posts of DSP. The procedure that has been devised cannot be said to arbitrary or discriminatory and therefore there is no violation of any fundamental right of the petitioner under Articles 14 and 16 of the Constitution. The petition is therefore rejected. Rule is discharged with no order as to costs.

(mohd)